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HIGH COURT OF CHHATTISGARH AT BILASPUR

Single Bench : HON'BLE SHRI H.L. DATTU, C.J.

Writ Petition No.2092 of 1990

PETITIONER		Vishram, S/o Ghasia Kanwar, Aged about 45 years, Occupation : Cultivator, R/o Village Pata, Tahsil : Gharghoda, District Raigarh (MP)
		Versus
RESPONDENTS	1.	Sub Divisional Officer (Revenue) Tahsil : Gharghoda, District : Raigarh (MP)
	2.	Karam Singh, S/o Trilochan Kanwar, R/o Village Pata, Halka No.39, Tahsil : Gharghoda, District Raigarh (MP)

Present : Mrs. Smita Ghai, counsel for the petitioner.
Shri Sumesh Bajaj, Govt. Adv. for the State/respondent No.1.

ORAL ORDER
(Passed on 28th March, 2007)

The petitioner is an agriculturist. He owns 25 acres of land. He is a native of village Pata, Tahsil Gharghoda, District Raigarh.

(2) The 2nd respondent had gone before the 1st respondent requesting him firstly to fix minimum wages under the Provisions of the Minimum Wages Act, 1948 (for short 'the Act') and then direct the petitioner to pay the minimum wages for the last ten years.

(3) The 1st respondent recorded the deposition of the petitioner as well as the 2nd respondent. In his evidence, the petitioner has categorically stated that he owns agricultural land and the 2nd respondent was his 'Kamiya' (employee). Nowhere in the evidence, he has stated that he had employed the 2nd respondent as an agricultural labourer. In spite of this, the 1st respondent has come to the conclusion that the petitioner had employed the 2nd respondent as an agricultural labourer and therefore the 2nd respondent is entitled to minimum wages under the provisions of the Act and has directed the petitioner to pay a sum of Rs.14,856=45 paise to the 2nd respondent, by

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his order dated 10-04-1989. Aggrieved by the said order passed by the 1st respondent, the petitioner is before me in this writ petition.

(4) Smt. Smita Ghai, learned counsel appearing for the petitioner would submit that the 2nd respondent in the writ petition was working as household labourer with the petitioner and therefore employment of the 2nd respondent is not covered under the provisions of the Act. Therefore, learned counsel for the petitioner would submit that the impugned order passed by the 1st respondent is without authority of law and without jurisdiction.

(5) Shri Sumesh Bajaj, learned Government Advocate appearing for the State/respondent No.1 would submit that the 2nd respondent was working with the petitioner as an agricultural labourer and therefore the 1st respondent had authority of law to pass an order in exercise of his power under the provisions of the Act. In support of his submission, the learned counsel has brought to my notice the notification issued by the State Government dated 24-11-1976.

(6) The question that falls for consideration of this Court is whether the 2nd respondent was working as agricultural labourer with the petitioner and therefore the provisions of the Act would apply.

(7) In the order passed, the 1st respondent in number of places has referred to the work that was entrusted to the 2nd respondent by the petitioner. A conjoint reading of several paragraphs of the order passed by the 1st respondent would demonstrate that the 2nd respondent was working with the petitioner only as household labourer.

(8) The next question that would arise for consideration of this Court is whether the provisions of the Act would apply to a person who was working as household labourer. For deciding this issue, the provisions of Section 2(g) read with Section 27 and the Schedule appended to the Act requires to be noticed. Section 2 (g) of the Act speaks of "scheduled employment", means an employment specified in the Schedule, or any process or branch of work forming part of such employment. Section 27 of the Act empowers the State Government to add to either part of the Schedule any employment in respect

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of which it is of opinion that minimum rate of the wages should be fixed under the Act.

(9) A perusal of the schedule to the Act would nowhere indicate that the employment in the form of household labourer would fall under the said Schedule. Since the employment of the 2nd respondent is not covered under the Schedule, the 1st respondent had no authority of law or jurisdiction to pass an order granting relief to the 2nd respondent by directing the petitioner to pay a minimum wage for a period of four years in a sum of Rs. Rs.14,856=45 paise.

(10) In view of the above discussion, in my opinion, the order passed by the 1st respondent requires to be annulled. Accordingly the following

Order

1. The petition is allowed.
2. The order made by the Sub Divisional Officer (Revenue) dated 10-04-1989 is set aside.
3. In the facts and circumstances of the case, the parties are directed to bear their own cost in this petition. Ordered accordingly.

Sd/-
Chief Justice